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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,728	06/19/2001	Clifford J. Dwyer	CRD-0940	3625

27777 7590 05/30/2003
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NEW BRUNSWICK, NJ 08933-7003

EXAMINER

MILLER, CHERYL L

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/884,728

Applicant(s)

DWYER ET AL.

Examiner

Cheryl Miller

Art Unit

3738

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

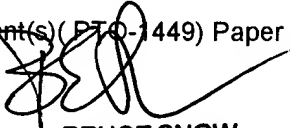
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-15.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


BRUCE SNOW
PRIMARY EXAMINER


cm

Continuation of 5. does NOT place the application in condition for allowance because: The Examiner believes that the applicant's amendment does not place the application in condition for allowance, and the claims as amended would still be rejectable with the references used in the final rejection. Applicant's arguments submitted May 8, 2003 are not found persuasive. Applicant has argued that Wilson (US 6,425,898 B1) does not disclose a sheath having a wire reinforcement having a rectangular cross-section. Although Wilson discloses a round cross-section and not a rectangular cross-section, 1) rectangular cross-sections are known in the art, see Kocak US 4,705,511, or Truckai US 5,176,660, for example, which teach rectangular cross-sections, these references were used in the final rejection to teach this very feature, and are still believed to teach this feature and 2) it may be an obvious design choice to change the shape of the cross-section since a round wire may have the same thickness as a rectangular cross section, still creating the low profile that the applicant wishes to achieve. Applicant has argued that Truckai does not disclose a layered sheath as the applicant has claimed. The examiner disagrees. Truckai clearly discloses the sheath having an "inner tubular layer 12", a wire reinforcement 16, which may be flat and rectangular in cross-section (see figures 1 and 2) and an "outer tubular layer 22", (col.3, line 39- col.4, line 23). Truckai clearly refers to the separate parts of the sheath as "layers" and the same end product is formed as the applicant has claimed. Applicant has argued that no motivation exists to combine Wilson with either Truckai or Kocak. The examiner disagrees. Wilson discloses a catheter having a layered outer sheath and a wire reinforcement. Truckai and Kocak both teach in the same field of layered catheter sheaths, a wire reinforcement with specific size and shape modifications, specifically, rectangular cross-sections, for the purpose of creating a low, thin, smooth profile. The arguments made by the applicant are non-persuasive and the examiner's position is believed to be adequately described above and in the final rejection filed March 11, 2003.